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HOUSE BILL 800

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO HIGHER EDUCATION; REDUCING THE PENALTY FOR
DEFAULTING ON A STUDENT LOAN FOR SERVICE; RECONCILING MULTIPLE
AMENDMENTS TO THREE SECTIONS OF LAW IN LAWS 2005.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 21-22-6 NMSA 1978 (being Laws 1975,
Chapter 244, Section 6, as amended by Laws 2005, Chapter 321,
Section 2 and by Laws 2005, Chapter 323, Section 1) is amended
to read:

"21-22-6. MEDICAL STUDENT LOANS--CONTRACT TERMS--
REPAYMENT.--

A. Each applicant who is approved for a loan by the
[~~commission~~] higher education department may be granted a loan,
in such amounts and for such periods as determined by the
[~~commission~~] department, with which to defray expenses incurred

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1 in obtaining a medical education at any reputable and
2 accredited medical school in the United States if the applicant
3 files with the [~~commission~~] department a declaration of [~~his~~]
4 intent to practice [~~his profession~~] as a licensed physician or
5 physician assistant in areas of New Mexico designated as not
6 being adequately served by medical practitioners.

7 B. The loans shall not exceed the necessary
8 expenses incurred while attending a medical school or college
9 and shall bear interest at the rate of:

10 (1) eighteen percent per year if the student
11 completes [~~his~~] the student's medical education and no portion
12 of the principal and interest is forgiven pursuant to
13 Subsection F of this section; and

14 (2) seven percent per year in all other cases.

15 C. Loans made pursuant to the Medical Student Loan
16 for Service Act shall not accrue interest until the department:

17 (1) [~~the commission~~] determines the loan
18 recipient has terminated the recipient's medical education
19 prior to completion;

20 (2) [~~the commission~~] determines the loan
21 recipient has failed to fulfill the recipient's obligation to
22 serve in a health professional shortage area; or

23 (3) [~~the commission~~] cancels a contract
24 between a student and the [~~commission~~] department pursuant to
25 Section 21-22-9 NMSA 1978.

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1 D. The loan shall be evidenced by a contract
2 between the student and the [~~commission~~] department acting on
3 behalf of the state. The contract shall provide for the
4 payment by the state of a stated sum covering the costs of a
5 medical education and shall be conditioned upon the repayment
6 of the loan to the state over a period established by the
7 [~~commission~~] department in consultation with the student after
8 completion of medical school and any period of internship or
9 residency required to complete the student's education.

10 E. Loans made to students who fail to complete
11 their medical education shall become due immediately upon
12 termination of their medical education. The [~~commission~~]
13 department, in consultation with the student, shall establish
14 terms of repayment, alternate service or cancellation terms.

15 F. The contract shall provide that the [~~commission~~]
16 department shall forgive a portion of the loan for each year
17 that a loan recipient practices [~~his profession~~] as a licensed
18 physician or physician assistant in areas approved by the
19 [~~commission~~] department as not being adequately served by
20 medical practitioners. The loan shall be forgiven as follows:

21 (1) loan terms of one year shall require one
22 year of practice in a designated health professional shortage
23 area. Upon completion of service, one hundred percent of the
24 loan shall be forgiven;

25 (2) loan terms of two years shall require one

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1 year of practice in a designated health professional shortage
2 area for each year of the loan. Upon completion of the first
3 year of service, fifty percent of the loan shall be forgiven.
4 Upon completion of the second year of service, the remainder of
5 the loan shall be forgiven; and

6 (3) for loan terms of three years or more,
7 forty percent of the loan shall be forgiven upon completion of
8 the first year of service in a designated health professional
9 shortage area, thirty percent of the loan shall be forgiven
10 upon completion of the second year of service and the remainder
11 of the loan shall be forgiven upon completion of the third year
12 of service.

13 G. Recipients shall serve a complete year in order
14 to receive credit for that year. The minimum credit for a year
15 shall be established by the [~~commission~~] department.

16 H. If a loan recipient completes [~~his~~] a
17 professional education and does not serve in a health
18 professional shortage area, the [~~commission~~] department shall
19 assess a penalty of up to three times the principal due, plus
20 [~~eighteen~~] seven percent interest, unless the [~~commission~~]
21 department finds acceptable extenuating circumstances for why
22 the student cannot serve. If the [~~commission~~] department does
23 not find acceptable extenuating circumstances for the student's
24 failure to carry out [~~his~~] the declared intent to serve in a
25 health professional shortage area in the state, the

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1 [commission] department shall require immediate repayment of
2 the loan plus the amount of any interest and penalty assessed
3 pursuant to this subsection.

4 I. The [commission] department shall adopt
5 [regulations] rules to implement the provisions of this
6 section. The [regulations] rules may provide for the repayment
7 of medical student loans in annual or other periodic
8 installments."

9 Section 2. Section 21-22A-6 NMSA 1978 (being Laws 1978,
10 Chapter 109, Section 6, as amended by Laws 2005, Chapter 321,
11 Section 4 and by Laws 2005, Chapter 323, Section 2) is amended
12 to read:

13 "21-22A-6. OSTEOPATHIC MEDICAL STUDENT LOANS--CONTRACT
14 TERMS--REPAYMENT.--

15 A. Each applicant who is approved for a loan by the
16 [commission] higher education department may be granted a loan,
17 in such amounts and for such periods as determined by the
18 [commission] department, with which to defray expenses incurred
19 in obtaining an osteopathic medical education at any reputable
20 and accredited osteopathic medical school in the United States
21 if the applicant files with the [commission] department a
22 declaration of [his] intent to practice [his ~~profession~~] as a
23 licensed osteopathic physician or osteopathic physician's
24 assistant in areas of New Mexico designated as not being
25 adequately served by osteopathic medical practitioners.

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1 B. The loan shall not exceed the necessary expenses
2 incurred while attending an osteopathic medical school or
3 college or osteopathic physician's assistant program and shall
4 bear interest at the rate of:

5 (1) eighteen percent per year if the [~~student~~]
6 loan recipient completes [~~his~~] an osteopathic medical education
7 and no portion of the principal and interest is forgiven
8 pursuant to Subsection F of this section; and

9 (2) seven percent per year in all other cases.

10 C. Loans made pursuant to the Osteopathic Medical
11 Student Loan for Service Act shall not accrue interest until
12 the department:

13 (1) [~~the commission~~] determines the loan
14 recipient has terminated the recipient's osteopathic medical
15 education prior to completion;

16 (2) [~~the commission~~] determines the loan
17 recipient has failed to fulfill the recipient's obligation to
18 serve in an area of New Mexico designated as not being
19 adequately served by osteopathic medical practitioners; or

20 (3) [~~the commission~~] cancels a contract
21 between a [~~student~~] loan recipient and the [~~commission~~]
22 department pursuant to Section 21-22A-9 NMSA 1978.

23 D. The loan shall be evidenced by a contract
24 between the [~~student~~] loan recipient and the [~~commission~~]
25 department acting on behalf of the state. The contract shall

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1 provide for the payment by the state of a stated sum covering
2 the costs of an osteopathic medical education and shall be
3 conditioned upon the repayment of the loan to the state over a
4 period established by the [~~commission~~] department in
5 consultation with the [~~student~~] loan recipient after the
6 completion of osteopathic medical school or an osteopathic
7 physician's assistant program and any period of internship or
8 residency required to complete the [~~students~~] loan recipient's
9 education.

10 E. Loans made to [~~students~~] loan recipients who
11 fail to complete their osteopathic medical education shall
12 become due immediately upon termination of their osteopathic
13 medical education. The [~~commission~~] department, in
14 consultation with the [~~student~~] loan recipient, shall establish
15 terms of repayment, alternate service or cancellation terms.

16 F. The contract shall provide that the [~~commission~~]
17 department shall forgive a portion of the loan for each year
18 that a loan recipient practices [~~his profession~~] as a licensed
19 osteopathic physician or osteopathic physician's assistant in
20 areas approved by the [~~commission~~] department as not being
21 adequately served by osteopathic medical practitioners. The
22 loan shall be forgiven as follows:

23 (1) loan terms of one year shall require one
24 year of practice in a designated health professional shortage
25 area. Upon completion of service, one hundred percent of the

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1 loan shall be forgiven;

2 (2) loan terms of two years shall require one
3 year of practice in a designated health professional shortage
4 area for each year of the loan. Upon completion of the first
5 year of service, fifty percent of the loan shall be forgiven.
6 Upon completion of the second year of service, the remainder of
7 the loan shall be forgiven; and

8 (3) for loan terms of three years or more,
9 forty percent of the loan shall be forgiven upon completion of
10 the first year of service in a designated health professional
11 shortage area, thirty percent of the loan shall be forgiven
12 upon completion of the second year of service and the remainder
13 of the loan shall be forgiven upon completion of the third year
14 of service.

15 G. Loan recipients shall serve a complete year in
16 order to receive credit for that year. The minimum credit for
17 a year shall be established by the [~~commission~~] department.

18 H. If a loan recipient completes [~~his~~] a
19 professional education and does not serve in a health
20 professional shortage area, the [~~commission~~] department shall
21 assess a penalty of up to three times the principal due, plus
22 [~~eighteen~~] seven percent interest, unless the [~~commission~~]
23 department finds acceptable extenuating circumstances for why
24 the [~~student~~] loan recipient cannot serve. If the [~~commission~~]
25 department does not find acceptable extenuating circumstances

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1 for the [~~student's~~] loan recipient's failure to carry out [~~his~~]
2 the declared intent to serve in a health professional shortage
3 area in the state, the [~~commission~~] department shall require
4 immediate repayment of the loan plus the amount of any interest
5 and penalty assessed pursuant to this section.

6 I. The [~~commission~~] department shall adopt
7 [~~regulations~~] rules to implement the provisions of this
8 section. The [~~regulations~~] rules may provide for the repayment
9 of osteopathic medical student loans in annual or other
10 periodic installments."

11 Section 3. Section 21-22C-6 NMSA 1978 (being Laws 1994,
12 Chapter 57, Section 8, as amended by Laws 2005, Chapter 321,
13 Section 9 and by Laws 2005, Chapter 323, Section 4) is amended
14 to read:

15 "21-22C-6. ALLIED HEALTH STUDENT LOANS--CONTRACT
16 TERMS--REPAYMENT.--

17 A. Prior to receiving a loan, each applicant
18 approved for a loan shall file with the [~~commission~~] higher
19 education department a declaration of intent to practice as a
20 licensed allied health professional in areas of New Mexico
21 designated as underserved.

22 B. The loans shall not exceed the necessary
23 expenses incurred while attending an allied health profession
24 program and shall bear interest at the rate of:

25 (1) eighteen percent per year if the [~~student~~]

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1 loan recipient completes [~~his~~] an allied health profession
2 education and no portion of the principal and interest is
3 forgiven pursuant to Subsection F of this section; and

4 (2) seven percent per year in all other cases.

5 C. Loans made pursuant to the Allied Health Student
6 Loan for Service Act shall not accrue interest until the
7 department:

8 (1) [~~the commission~~] determines the loan
9 recipient has terminated the recipient's allied health
10 profession education prior to completion;

11 (2) [~~the commission~~] determines the loan
12 recipient has failed to fulfill the recipient's obligation to
13 practice as a licensed allied health professional in areas of
14 New Mexico designated as underserved; or

15 (3) [~~the commission~~] cancels a contract
16 between a [~~student~~] loan recipient and the [~~commission~~]
17 department pursuant to Section 21-22C-9 NMSA 1978.

18 D. The loan shall be evidenced by a contract
19 between the [~~student~~] loan recipient and the [~~commission~~]
20 department acting on behalf of the state. The contract shall
21 provide for the payment by the state of a stated sum covering
22 the costs of an allied health profession education and shall be
23 conditioned on the repayment of the loan to the state over a
24 period negotiated between the [~~student~~] loan recipient and the
25 [~~commission~~] department after completion of an allied health

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1 profession education.

2 E. Loans made to [~~students~~] loan recipients who
3 fail to complete their allied health profession education shall
4 become due immediately upon termination of that education. The
5 [~~commission~~] department, in consultation with the [~~student~~]
6 loan recipient, shall establish repayment terms, alternate
7 service or cancellation terms.

8 F. The contract shall provide that the [~~commission~~]
9 department shall forgive a portion of the loan for each year
10 that a loan recipient practices an allied health profession in
11 areas approved by the [~~commission~~] department. The loan shall
12 be forgiven as follows:

13 (1) loan terms of one year shall require one
14 year of practice in a designated health professional shortage
15 area. Upon completion of service, one hundred percent of the
16 loan shall be forgiven;

17 (2) loan terms of two years shall require one
18 year of practice in a designated health professional shortage
19 area for each year of the loan. Upon completion of the first
20 year of service, fifty percent of the loan shall be forgiven.
21 Upon completion of the second year of service, the remainder of
22 the loan shall be forgiven; and

23 (3) for loan terms of three years or more,
24 forty percent of the loan shall be forgiven upon completion of
25 the first year of service, thirty percent of the loan shall be

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1 forgiven upon completion of the second year of service and the
2 remainder of the loan shall be forgiven upon completion of the
3 third year of service.

4 G. Loan recipients shall serve a complete year in
5 order to receive credit for that year. The minimum credit for
6 a year shall be established by the [~~commission~~] department.

7 H. If a loan recipient completes [~~his~~] a
8 professional education and does not serve the required number
9 of years in a health professional shortage area, the
10 [~~commission~~] department shall assess a penalty of up to three
11 times the principal due, plus [~~eighteen~~] seven percent
12 interest, unless the [~~commission~~] department finds acceptable
13 extenuating circumstances for why the student cannot serve. If
14 the [~~commission~~] department does not find acceptable
15 extenuating circumstances for the [~~student's~~] loan recipient's
16 failure to carry out [~~his~~] the declared intent to serve in a
17 health professional shortage area in the state, the
18 [~~commission~~] department shall require immediate repayment of
19 the loan plus the amount of any interest and penalty assessed
20 pursuant to this subsection.

21 I. The [~~commission~~] department shall adopt
22 [~~regulations~~] rules to implement the provisions of this
23 section. The [~~regulations~~] rules may provide for the repayment
24 of allied health student loans in annual or other periodic
25 installments."

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1 Section 4. Section 21-22D-6 NMSA 1978 (being Laws 1995,
2 Chapter 144, Section 21, as amended) is amended to read:

3 "21-22D-6. AWARD CRITERIA--CONTRACT TERMS--PAYMENT.--

4 A. Prior to receiving an award, the health
5 professional shall file with the [~~commission~~] higher education
6 department a declaration of intent to practice as a health
7 professional in areas of New Mexico designated as underserved
8 by the [~~commission~~] department.

9 B. Award criteria shall provide that:

10 (1) amounts shall be dependent upon the
11 location of the practice, the applicant's total health
12 professional education indebtedness and characteristics of the
13 practice;

14 (2) preference in making awards shall be to
15 [~~individuals~~] persons who have graduated from a New Mexico
16 public post-secondary educational institution;

17 (3) recruitment awards shall be made to
18 eligible participants who agree to relocate to an approved
19 designated area;

20 (4) highest priority shall be given to
21 participants in practices in which health profession vacancies
22 are difficult to fill, practices that require after hours call
23 at least every other night and practices that have heavy
24 obstetrical responsibilities;

25 (5) award amounts may be modified based upon

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1 available funding or other special circumstances; and

2 (6) an award shall not exceed the total
3 medical education indebtedness of any participant.

4 C. The following education debts are not eligible
5 for repayment pursuant to the Health Professional Loan
6 Repayment Act:

7 (1) amounts incurred as a result of
8 participation in state loan-for-service programs or other state
9 programs whose purpose states that service be provided in
10 exchange for financial assistance;

11 (2) scholarships that have a service component
12 or obligation;

13 (3) personal loans from friends or relatives;
14 and

15 (4) loans that exceed individual standard
16 school expense levels.

17 D. The loan repayment award shall be evidenced by a
18 contract between the health professional and the [~~commission~~]
19 department acting on behalf of the state. The contract shall
20 provide for the payment by the state of a stated sum to the
21 health professional's debtors and shall state the obligations
22 of the health professional under the program, including a
23 minimum two-year period of service, quarterly reporting
24 requirements and other policies established by the [~~commission~~]
25 department.

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1 E. Loan recipients shall serve a complete year in
2 order to receive credit for that year. The minimum credit for
3 a year shall be established by the [~~commission~~] department.

4 F. If a health professional does not comply with
5 the terms of the contract, the [~~commission~~] department shall
6 assess a penalty of up to three times the amount of award
7 disbursed plus [~~eighteen~~] seven percent interest, unless the
8 [~~commission~~] department finds acceptable extenuating
9 circumstances for why the health professional cannot serve or
10 comply with the terms of the contract. If the [~~commission~~]
11 department does not find acceptable extenuating circumstances
12 for the health professional's failure to comply with the
13 contract, the [~~commission~~] department shall require immediate
14 repayment plus the amount of the penalty.

15 G. The [~~commission~~] department shall adopt
16 [~~regulations~~] rules to implement the provisions of this
17 section. The [~~regulations~~] rules may provide for the
18 disbursement of loan repayment awards to the lenders of health
19 professionals in annual or other periodic installments."

20 Section 5. Section 21-22E-6 NMSA 1978 (being Laws 2001,
21 Chapter 288, Section 6, as amended) is amended to read:

22 "21-22E-6. TEACHER LOANS--CONTRACT TERMS--REPAYMENT.--

23 A. Each applicant who is approved for a loan by the
24 [~~commission~~] higher education department may be granted a loan
25 in such amounts and for such periods as the [~~commission~~]

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1 department determines. The loan shall not exceed the necessary
2 expenses incurred while attending a teacher preparation
3 program.

4 B. A loan shall bear interest at the rate of:

5 (1) eighteen percent per year if the loan
6 recipient completes [~~his~~] a teacher preparation program and no
7 portion of the principal and interest is forgiven pursuant to
8 Subsection F of this section; or

9 (2) seven percent per year in all other cases.

10 C. Loans made pursuant to the Teacher Loan for
11 Service Act shall not accrue interest until the department:

12 (1) [~~the commission~~] determines the loan
13 recipient has terminated the recipient's teacher preparation
14 program prior to completion;

15 (2) [~~the commission~~] determines the loan
16 recipient has failed to fulfill the recipient's obligation to
17 practice as a licensed teacher in New Mexico; or

18 (3) [~~the commission~~] cancels a contract
19 between a student and the [~~commission~~] department pursuant to
20 Section 21-22E-9 NMSA 1978.

21 D. The loan shall be evidenced by a contract
22 between the loan recipient and the [~~commission~~] department
23 acting on behalf of the state. The contract shall provide for
24 the payment by the state of a stated sum covering the costs of
25 a teacher preparation program and shall be conditioned on the

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1 repayment of the loan to the state over a period established by
2 the [~~commission~~] department after the completion of the teacher
3 preparation program and any postgraduate study or internship
4 required to complete the loan recipient's education.

5 E. A loan made to a recipient who fails to complete
6 [~~his~~] a teacher preparation program shall become due
7 immediately upon termination of [~~his~~] the teacher preparation
8 program. The [~~commission~~] department, in consultation with the
9 loan recipient, shall establish terms of repayment, alternate
10 service or cancellation terms.

11 F. The contract shall provide that the [~~commission~~]
12 department shall forgive a portion of the loan for each year
13 that the loan recipient practices [~~his profession~~] as a
14 licensed teacher in New Mexico. The loan shall be forgiven as
15 follows:

16 (1) loan terms of one year shall require one
17 year of practice. Upon completion of service, one hundred
18 percent of the loan shall be forgiven;

19 (2) loan terms of two years shall require one
20 year of practice for each year of the loan. Upon completion of
21 the first year of service, fifty percent of the loan shall be
22 forgiven. Upon completion of the second year of service, the
23 remainder of the loan shall be forgiven; and

24 (3) for loan terms of three years or more,
25 forty percent of the loan shall be forgiven upon completion of

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1 the first year of service, thirty percent of the loan shall be
2 forgiven upon completion of the second year of service and the
3 remainder of the loan shall be forgiven upon completion of the
4 third year of service.

5 G. A loan recipient shall serve a complete contract
6 year in order to receive credit for that year. The minimum
7 credit for a year shall be established by the [~~commission~~]
8 department.

9 H. If a loan recipient completes [~~his~~] a teacher
10 preparation program and does not serve in a New Mexico public
11 school, the [~~commission~~] department shall assess a penalty of
12 up to three times the principal due, plus [~~eighteen~~] seven
13 percent interest, unless the [~~commission~~] department finds
14 acceptable extenuating circumstances that prevent the loan
15 recipient from serving. If the [~~commission~~] department does
16 not find acceptable extenuating circumstances for the loan
17 recipient's failure to carry out [~~his~~] the recipient's declared
18 intent to serve, the [~~commission~~] department shall require
19 immediate repayment of the loan plus the amount of any interest
20 and penalty assessed pursuant to this section.

21 I. The [~~commission~~] department shall adopt and
22 promulgate rules to implement the provisions of this section.
23 The rules may provide for the repayment of loans in annual or
24 other periodic installments."

25 Section 6. Section 21-22F-6 NMSA 1978 (being Laws 2005,
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1 Chapter 83, Section 6) is amended to read:

2 "21-22F-6. LOAN REPAYMENT CONTRACT TERMS--PAYMENT.--

3 A. The loan repayment award shall be evidenced by a
4 contract between the participating attorney and the
5 [~~commission~~] higher education department acting on behalf of
6 the state. The contract shall state the amount of the award
7 and the obligations of the participating attorney under the
8 public service law loan repayment program, including a minimum
9 three-year period of service, quarterly reporting requirements
10 and other policies established by the [~~commission~~] department.

11 B. A participating attorney shall serve a complete
12 year in order to receive credit for that year. The minimum
13 credit for a year shall be established by the [~~commission~~]
14 department. The maximum credit for a year shall not exceed
15 seven thousand two hundred dollars (\$7,200).

16 C. If a participating attorney does not comply with
17 the terms of the contract, the [~~commission~~] department shall
18 require immediate repayment of the award plus [~~eighteen~~] seven
19 percent interest and may assess a penalty of up to three times
20 the amount of award disbursed, unless the [~~commission~~]
21 department finds acceptable extenuating circumstances for why
22 the participating attorney cannot serve or comply with the
23 terms of the contract. If the [~~commission~~] department does not
24 find acceptable extenuating circumstances for the participating
25 attorney's failure to comply with the contract, the

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1 ~~[commission]~~ department shall require immediate repayment of
2 the award plus the amount of the penalty.

3 D. The ~~[commission]~~ department, in consultation
4 with the committee, shall adopt rules to implement the
5 provisions of this section. The rules may provide for the
6 disbursement of loan repayment awards in annual or other
7 periodic installments."

8 Section 7. APPLICABILITY.--This act applies to loans made
9 on or after July 1, 2006.